

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RAY CHARLES HARRIS,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

CASE NO. 3:16-CV-05716-BHS-DWC

ORDER

The District Court has referred this action filed under 28 U.S.C. § 2254 to United States Magistrate Judge David W. Christel. Currently before the Court are Petitioner Ray Charles Harris's Motion to Amend and Request to Amend Motion for Discovery. Dkt. 20, 22.¹ After review of the record, the Motion to Amend and Request to Amend Motion for Discovery are denied.

¹ The Petition and Petitioner's Motion for Summary Judgment are ready for consideration, *see* Dkt. 7, 14, 15, and will be addressed in a separate Report and Recommendation. Additionally, Petitioner filed a Motion for Appointment of Counsel, which became ready for the Court's consideration on November 4, 2016, and an Amended Motion to Compel Discovery, which is ready for the Court's consideration on November 18, 2016. Dkt. 27.

I. Motion to Amend (Dkt. 20)

In his Petition, Petitioner named the State of Washington as Respondent. *See* Dkt. 7. Petitioner now seeks to amend the Petition to name Jeffrey A. Uttecht as Respondent. Dkt. 20. The State of Washington does not object to Petitioner amending the Petition to name Jeffrey Uttecht as Respondent. Dkt. 23.

The proper respondent to a habeas petition is the “person who has custody over [the petitioner].” 28 U.S.C. § 2242; see also § 2243; *Brittingham v. United States*, 982 F.2d 378 (9th Cir. 1992); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989). According to his Petition, Petitioner is currently confined at Coyote Ridge Corrections Center in Connell, Washington. *See* Dkt. 7, p. 1. The Superintendent of Coyote Ridge Corrections Center is Jeffrey Uttecht. *See* Dkt. 23. Accordingly, Petitioner’s Motion to Amend is granted. The Clerk of Court is directed to substitute Jeffrey A. Uttchet as the Respondent in this action.

II. Request to Amend Motion for Discovery (Dkt. 22)

On September 14, 2016, Petitioner filed a Motion to Compel Discovery, requesting the Court compel the Pierce County Superior Court Clerk to “hand over trial transcripts, motion to dismiss and motion for arrest of judgement (sic)” in his case. Dkt. 12. The Court denied the Motion on October 18, 2016, because Plaintiff had not been given leave to conduct discovery pursuant to Rule 6 of the Rules Governing Section 2254 Cases. Dkt. 18.

On October 20, 2016, Petitioner filed the Request to Amend Motion for Discovery asking for permission to amend his Motion for Discovery. Dkt. 22.² On November 1, 2016, Petitioner filed

² Petitioner requests permission to amend his Motion for Discovery filed on August 29, 2016. *See* Dkt. 22. Petitioner’s Motion to Compel Discovery was signed on September 8, 2016. Dkt. 12. The docket does not reflect any discovery motions filed on August 29, 2016; therefore, the Court interprets Petitioner’s request as seeking to amend the September 8, 2016 Motion to Compel Discovery.

1 an Amended Motion to Compel Discovery. Dkt. 27. As Petitioner filed an amended discovery
2 motion, the Request to Amend Motion for Discovery (Dkt. 22) is denied as moot.

3 Dated this 15th day of November, 2016.

4 

5 _____
6 David W. Christel
7 United States Magistrate Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24